

REMARKS

Initially, Applicants would like to express appreciation to the Examiner, Ms. Victoria Chen, for the courtesy of the telephone interview conducted with their attorney, Ms. Linda J. Hodge, on May 26, 2011. During the interview, the claims were discussed, and compared to the prior art applied by the Examiner in the rejection, *i.e.*, MITSUDA et al. (U.S. Patent No. 6,013,024). Applicants' attorney argued that the MITSUDA et al. patent shows notches at the end of the probe, with the notches extending through both the side face and the end face of the probe, with wires extending through the notches; and that MITSUDA et al. fails to disclose or teach apertures that extend through the side face only and with surgical instruments extending through the apertures. Applicants' attorney and the Examiner discussed possible amendments to the independent claims to set forth, e.g., that the apertures extend through the side face only; that the apertures are not connected to the distal end face; that the center aperture is distinct from the side apertures; and to change "aperture" to --hole--. Accordingly, Applicants have presented amended claims 5 and 6 in a formal amendment, in order to obtain an early allowance of the claims of record.

Applicants would also like to express appreciation to the Examiner for the detailed Official Action provided.

Upon entry of the above amendment, claims 5, 6, 35, and 36 will have been amended. Accordingly Claims 1, 2, 5-13, 20-26, 35, and 36 are currently pending. Claims 1, 2, 7-13, and 20-26 have been withdrawn from consideration by the Examiner as being directed to a nonelected invention. Applicants respectfully request reconsideration of the outstanding rejections and allowance of claims 5, 6, 35, and 36 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has objected to the title for minor informalities. In response, Applicants have amended the title, as suggested by the Examiner. Accordingly, in view of the above noted amendments and remarks, it is believed that the objection to the title has been overcome, and Applicants respectfully request reconsideration and withdrawal of the outstanding objection.

The Examiner has rejected claims 5, 6, 35, and 36 under 35 U.S.C. § 102(b) as being anticipated by MITSUDA et al. (U.S. 6,013,024).

Although Applicants do not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicants have amended independent claims 5 and 6 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicants note that the MITSUDA et al. patent fails to show each and every element recited in the amended claims. In particular, independent claim 5, as amended, sets forth an internal treatment apparatus with a flexible tubular body to be introduced into a patient including, inter alia, "a center opening for inserting therethrough an endoscope for observing a target site, said center opening extending through said flexible tubular body from a center of a distal end face of said flexible tubular body, said distal end face facing said target site, and a plurality of circumferential holes through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential holes being provided to extend through a side face of said flexible tubular body at said distal end of said flexible tubular body so that each of said plurality of circumferential holes is independent from said distal end face, and each of said plurality of circumferential holes is distinct from said center opening". Independent claim 6, as amended, sets forth an internal treatment system including, inter alia, "a flexible tubular body to be introduced into a patient, said flexible tubular body including a center opening for inserting therethrough an endoscope for observing a target

site, said center opening being circular in cross section and extending through said flexible tubular body from a center of a distal end face of said flexible tubular body, said distal end face facing said target site, and a plurality of circumferential holes through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential holes being provided to extend through a side face of said flexible tubular body at said distal end of said flexible tubular body, so that each of said plurality of circumferential holes is independent from said distal end face, and each of said plurality of circumferential holes is distinct from said center opening; a body manipulating device for manipulating said flexible tubular body from outside said patient; an endoscope manipulating device for manipulating said endoscope from outside said patient; and a surgical instrument manipulating device for manipulating said surgical instruments from outside said patient”.

This amendment is fully supported by the specification, including the claims and drawings, and no prohibited new matter has been added.

Applicants' claimed invention provides an internal treatment apparatus and system as shown in Figures 7-14. As shown particularly in figures 8 and 9, the present invention includes a flexible tubular member having a distal end portion 111. A center opening 220 extends through the flexible tubular member from the center of the distal end face 111b of the flexible tubular body. A plurality of circumferential holes 131, 132 pass through the flexible tubular member from the side face 112b of the flexible tubular member to the proximal end face 10c, as shown in figure 14. The circumferential holes 131, 132 are open on the side surface of the flexible tubular body and extend through the flexible tubular body. Thus, as shown in figures 8 and 9, the circumferential holes 131, 132 are near, but spaced from, the distal end *face* 111b of the flexible tubular member, and are, therefore, independent from the distal end face 111b of the flexible

tubular member. Further, as shown in figure 8, the center opening 220 is distinct from each of the circumferential holes. Surgical instruments 242 and 241 are passed through the circumferential holes 131, 132.

The MITSUDA et al. patent discloses a hybrid operation system including a flexible tubular body 3 with a center opening and a plurality of circumferential notches at the distal end face of the tubular body, with operational wires G that extend through the notches. See particularly figures 7 and 8.

As shown in the figures, the MITSUDA et al. device includes notches, and not holes. In this regard, in the present invention, each circumferential hole includes a completely enclosed perimeter. However, in MITSUDA et al., the notches include an open perimeter portion such that there is not a completely enclosed perimeter. Accordingly, the notches of MITSUDA et al. cannot fairly be considered to be "holes" as presently claimed. Further, in MITSUDA et al., the notches are cut from the end face of the flexible tubular body such that each notch is positioned on both the end face and the side of the flexible tubular body. Thus, in MITSUDA et al., each notch is part of both the end face and the side of the flexible tubular body. Accordingly, the notches of MITSUDA et al. cannot fairly be considered to be "independent" from the distal end face of the flexible tubular body, as presently claimed. Additionally, as shown in the figures, in the MITSUDA et al. device, there is a center opening and the notches open into the center opening so that the guide wires G are inserted through the same center opening. The MITSUDA et al. device does not include separate openings for the endoscope and for the guide wires. Accordingly, the notches of MITSUDA et al. cannot fairly be considered to be "distinct" from the center opening, as presently claimed.

By the present amendment, Applicants' claimed invention provides that *the circumferential holes extend through a side face of the flexible tubular body, that the circumferential holes are independent from the distal end face, and that the circumferential holes are distinct from the center opening.*

Thus, since the MISTUDA et al. reference discloses a tubular body with notches that are not holes, that are positioned on both the end face and the side of the tubular body, and that open into the center opening, the MISTUDA et al. patent does not disclose a tubular body with a plurality of circumferential holes through which surgical instruments are inserted, the circumferential holes extending through a side face of the flexible tubular body at the distal end of the flexible tubular body so that the circumferential holes are independent from the distal end face, and the circumferential holes are distinct from the center opening, as claimed.

Therefore, the MISTUDA et al. patent does not disclose an internal treatment apparatus including, inter alia, "a center opening for inserting therethrough an endoscope for observing a target site, said center opening extending through said flexible tubular body from a center of a distal end face of said flexible tubular body, said distal end face facing said target site, and a plurality of circumferential holes through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential holes being provided to extend through a side face of said flexible tubular body at said distal end of said flexible tubular body so that each of said plurality of circumferential holes is independent from said distal end face, and each of said plurality of circumferential holes is distinct from said center opening", as set forth in independent claims 5 and 6, as amended.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 5 and 6 under 35 U.S.C. § 102(e) over MITSUDA et al. is improper and withdrawal thereof is respectfully requested.

Applicants submit that dependent claims 35 and 36, which are at least patentable due to their dependency from claims 5 and 6, respectively, for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features. Accordingly, claims 35 and 36 are each separately patentable for these additional reasons.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 5, 6, 35, and 36.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the proposed response is proper and that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in claims 5, 6, 35 and 36. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

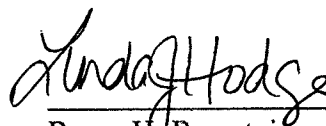
Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a

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rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

Respectfully Submitted,
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